

**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MINNESOTA**

In RE:

JOHANSEN, SHARON HABERMAN,

Case No.: 03-61260

Chapter 7

Debtor.

**NOTICE OF MOTION AND MOTION OBJECTING TO EXEMPT PROPERTY**

TO: The United States Bankruptcy court, the United States Trustee, the Debtor, the Debtor's attorney, and all parties who requested notice under Bankruptcy Rule 2002.

1. David G. Velde, Trustee of the bankruptcy estate of the above-named debtors moves the court for the relief requested below and gives notice of hearing.

2. The Court will hold a hearing on this motion at 10:30 a.m. on January 27, 2004, in US Bankruptcy Court, 204 US Courthouse 118 South Mill Street, Fergus Falls, Minnesota.

3. Any response to this motion must be filed and served not later than January 16, 2004, at 10:30 a.m., which is seven days before the time set for the hearing (excluding Saturdays, Sundays, and legal holidays), or filed and served by mail not later than January 13, 2004, which is ten days before the time set for the hearing (excluding Saturdays, Sundays, and legal holidays). **UNLESS A RESPONSE OPPOSING THE MOTION IS TIMELY FILED, THE COURT MAY GRANT THE MOTION WITHOUT A HEARING.**

4. This court has jurisdiction over this motion pursuant to 28 U.S.C. §§157 and 1334. This proceeding is a core proceeding. The petition commencing this Chapter 7 case was filed on October 1, 2003. The case is now pending in this Court.

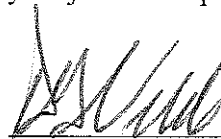
5. This motion arises under 11 U.S.C. § 522, and Bankruptcy Rule 4003 and Local Rule 4003-1(a). This motion is filed under Bankruptcy Rule 9014 and Local Rule 9013-1. Movant requests relief with respect to debtor's claims for exemption.

6. Debtor has claimed as exempt the following asset which the trustee objects to as follows: Wedding ring valued at \$5,000 claimed exempt under MSA § 550.37(4), 6 wheeler owned jointly with spouse valued at \$2,500 claimed exempt under MSA § 550.37(5), 401 k valued at \$8,109.97 claimed exempt under MSA § 550.37(24), 10 head of elk, two horses and goats valued at \$6,000 claimed exempt under MSA § 550.37(6), and John Deere "B" tractor valued at \$1,000, John Deere 620 tractor valued at \$2,500 and New Holland tractor valued at \$20,000 claimed exempt under MSA § 550.37(5).

7. The trustee objects to the debtor's claim of exemption on the following basis: The wedding ring does not qualify as a personal good as defined in the statute. The debtor has not provided the trustee with verification of how the monies in the 401k plan were received as the debtor was self-employed. The animals are not tools of trade and therefore do not qualify as exempt under the cited statute. As to the equipment, the trustee does not believe that the debtor is engaged principally in farming. The trustee believes that the debtor may have undervalued her interest in the assets and therefore exceeded the amounts allowed under the cited statutes.

WHEREFORE, the Applicant moves the court for an order sustaining trustee's objection to claimed exempt property and such other relief as may be just and equitable.

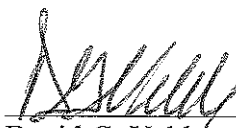
Date: 12/10/03



David G. Velde, Trustee  
1118 Broadway  
Alexandria, MN 56308  
(320) 763-6561

**Verification.** I, David G. Velde, the moving party named in the foregoing notice of hearing and motion, declare under penalty of perjury that the foregoing is true and correct according to the best of my knowledge, information and belief.

Date: 12/10/03



David G. Velde

**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MINNESOTA**

In RE:

JOHANSEN, SHARON HABERMAN,  
  
Debtor.

Case No.: 03-61260  
Chapter 7

**ORDER**

At Fergus Falls, Minnesota, \_\_\_\_\_, \_\_\_\_\_.

Upon the Objection to Claimed Exempt Property filed by the Trustee and upon all the files and records of the proceedings herein,

IT IS ORDERED:

1. The debtor's wedding ring valued at \$5,000 claimed exempt under MSA § 550.37(4) is not exempt.
2. The debtor's 6 wheeler valued at \$2,500, John Deere "B" tractor valued at \$1,000, John Deere 620 tractor valued at \$2,500 and New Holland tractor valued at \$20,000 claimed exempt under MSA § 550.37(5) are not exempt inasmuch as these items do not represent tools of trade.
3. The debtor's 401 k valued at \$8,109.97 claimed exempt under MSA § 550.37(24) is not exempt.
4. 10 head of elk, two horses and goats valued at \$6,000 claimed exempt under MSA § 550.37(6) are not exempt.

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Judge Dennis D. O'Brien  
US Bankruptcy Court

STATE OF MINNESOTA )

) SS.

COUNTY OF DOUGLAS )

Julie A. Dolman, of the City of Alexandria, County of Douglas, in the State of Minnesota, being duly sworn, says that on the 10<sup>th</sup> day of December, 2003, she served the attached Notice of Motion and Motion Objecting to Exempt Property and proposed Order, by electronically filing with:

US Bankruptcy Court

204 PO Building

118 S. Mill Street

Fergus Falls MN 56537

and mailing to a copy thereof, enclosed in an envelope, postage prepaid, and by depositing same in the post office at Alexandria, Minnesota, directed to said at:

Habbo G. Fokkena

US Trustee

1015 US Courthouse

300 South Fourth Street

Minneapolis, MN 55415

David L. Johnson

Attorney at Law

P.O. Box 2189

Fargo, ND 58108

Sharon Haberman Johansen

20965 - 28<sup>th</sup> Avenue North

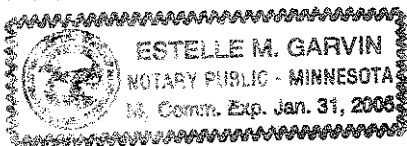
Hawley, MN 56549

Julie A. Solomon

Julie/A. Dolman

Subscribed and sworn to before me this 10<sup>th</sup> day of December, 2003.

Notarial Stamp or Seal



William Lawton

Notary Public